

Dryden Policy Directive

Directive: DPD 5103.2

Effective Date: April 2, 1999
Expiration Date: April 2, 2004

RESPONSIBLE OFFICE: A/Acquisition Management Office

SUBJECT: Contracting with Government Employees or Former NASA Employees

1. PURPOSE

This directive sets out guidance for contracting with government employees and former NASA employees, or organizations owned or controlled by them.

2. DEFINITIONS

"Government Employee", as shown in FAR 3.601 - means a Government employee, or business concern, or other organization that is owned (or substantially owned, or controlled) by one or more Government employees.

"Former NASA employee", as shown in NFS 18-3.7001 - means a former NASA employee, or a business concern, or other organization that is owned (or substantially owned or controlled) by one or more former NASA employees, who left NASA employment within two years prior to contract award.

"Special Government employee", as shown in FAR 3.601 - means an individual performing services to the Government as an expert, advisor, or consultant. This individual is not considered to be a Government employee unless (1) the contract arises directly out of the individual's activity as a special Government employee; (2) in the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or (3) another conflict of interest exists.

"Contract", as shown in FAR 2.101 - means a mutually binding legal relationship obligating the seller to furnish supplies or services and the buyer to pay for them. It includes all types of commitments of any dollar value that obligates the Government to an expenditure of appropriated funds.

3. CONTRACTING REQUIREMENTS

A. Every purchase request to enter into a non-competitive contract for the services of a Government employee, or former NASA employee, must be supported by a justification.

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B. If the non-competitive procurement is for more than \$25,000, a Justification for Other Than Full and Open Competition (JOFOC) is required (as prescribed in FAR 6.303.2). If the procurement is for \$25,000 or less, the justification is a memorandum in abbreviated JOFOC format.

C. The justification for a non-competitive procurement shall state that the proposed contractor is a Government employee or former NASA employee, and shall explain why it is in the best interest of the Government to take this action. Except as noted wherein, justifications are approved as shown in NFS 18-6.304.

1. Former NASA employees - To ensure proper oversight because of the sensitivity of contracting with former NASA employees, it is center policy that justifications for \$100,000 and less are to be prepared by the initiating organization, with concurrence by the Directorate Chief and the Procurement Officer, and approved by the Deputy Director (or designee).

2. Government employees - As shown in FAR 3.601 and NFS 18-3.602, special approval is required to award a contract to a Government employee. Justifications for \$100,000 and less are to be prepared by the initiating organization, with concurrence by the Directorate Chief and the Procurement Officer, and approved by the Center Director (or designee). Requests above this authority are forwarded to the Associate Administrator for Procurement (Code HS) for approval.

D. Authority to award a contract to a Government employee as a result of competitive negotiation, sealed bid or Small Purchase procedure is required at the same approval level as in paragraph C(2) above.

4. REFERENCES

FAR Subpart 2.1, Definitions
 FAR Subpart 3.6, Contracts with Government Employees
 FAR Subpart 6.3, Other Than Full and Open Competition
 NFS Subpart 18-3.6, Contracts with Government Employees
 NFS Subpart 18-3.70, Contracts Between NASA and its Former Employees

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 Director

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